

KRONENBERGER BURGOYNE, LLP
Karl S. Kronenberger (Cal. Bar No. 226112)
Jeffrey M. Rosenfeld (Cal. Bar No. 222187)
150 Post Street, Suite 520
San Francisco, CA 94108
Telephone: (415) 955-1155
Facsimile: (415) 955-1158
karl@KBInternetLaw.com
jeff@KBInternetLaw.com

Attorneys for Plaintiff Digby Adler Group LLC
dba Bandago

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

**DIGBY ADLER GROUP LLC DBA
BANDAGO**

Plaintiff,

vs.

**IMAGE RENT A CAR, INC., VAN
RENTAL CO., INC.,**

Defendants.

Case No. 3:10-cv-00617-SC

**DECLARATION OF GUY HIGBEY IN
OPPOSITION TO DEFENDANTS'
MOTION TO DISMISS OR IN THE
ALTERNATIVE TO TRANSFER VENUE**

DATE: June 16, 2010
TIME: 10:00 a.m.
CTRM: 1, 17th Floor
JUDGE: The Hon. Samuel Conti

KRONENBERGER BURGOYNE, LLP
150 Post Street, Suite 520
San Francisco, CA 94108
www.KBInternetLaw.com

1 I, Guy Higbey, declare as follows:

2 1. I am the General Manager of Digby Adler Group LLC *dba* Bandago
3 ("Bandago"). Unless otherwise stated, I have personal knowledge of the matters stated
4 herein.

5 2. As the General Manager of Bandago, I oversee the day-to-day operations
6 of the company, including addressing consumer inquiries.

7 3. I reside in Northern California, and I am prepared to testify in this action,
8 including as to consumer confusion resulting from Defendants' registration and use of the
9 <www.bandago.net> domain name.

10 4. During 2008 and 2009, Bandago received several inquiries from California
11 consumers regarding the relationship between Bandago on the one hand and the domain
12 name <www.bandago.net>, the website associated with that domain name, and Image
13 Rent A Car, Inc. and Van Rental Co., Inc on the other hand.

14 5. During this time period, I discussed these incidents of consumer confusion
15 with other Bandago employees who had witnessed similar incidents of consumer
16 confusion, including Sharky Laguana, Keeley Pederson, Andrew Moore, and Rachel
17 Lastimosa.

18 I declare under penalty of perjury under the laws of the United States of America
19 that the foregoing is true and correct and that this Declaration was executed on May 25,
20 2010, in San Francisco, California.

21
22 s/ Guy Higbey

23 Guy Higbey
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ATTESTATION OF CONCURRENCE IN FILING

Pursuant to the General Order No. 45, section 45 X(B), for The United States District Court for the Northern District of California, I, Karl S. Kronenberger, hereby attest that the concurrence to the filing of this DECLARATION OF GUY HIGBEY IN OPPOSITION TO DEFENDANTS' MOTION TO DISMISS OR IN THE ALTERNATIVE TO TRANSFER VENUE has been obtained from Guy Higbey who has provided the conformed signature above.

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